

OGC Has Reviewed

Approved For Release 2002/06/28 : CIA-RDP78-05252A000100010080-9

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SECURITY INFORMATION

28 December 1951

2-4381

MEMORANDUM FOR: Assistant Deputy Director/Administration (Special)

FROM : Office of General Counsel

SUBJECT : Claim of [REDACTED]

25X1A2e

1. Returned herewith are the memoranda from Chief, FE, to DD/A dated 5 November 1951 and from the Special Contracting Officer to you dated 14 December 1951. After our discussion of the case, you requested written comments.

2. It is believed that our memorandum to DD/A dated 27 August 1951 adequately sets forth the laws and regulations as interpreted by the Comptroller General. In that memorandum we concluded that there was no legal basis on which the claim as presented could be paid. However, a part of the original claim is now being presented for payment as an operational expense.

3. It is noted that the present memoranda indicate the claim for expense of shipping Mr. [REDACTED] automobile in the amount of \$318.69. In our memorandum of 27 August 1951 the amount of such expense is referred to as \$140.80, presumably having been set forth in the original memorandum from Chief, FE.

4. Chief, FE, quotes from the transmission sheet of Part 14 of the CFE's: "The principle is recognized that no individual should be required to suffer personal loss without equal compensation solely because of his services to CIA." The quotation summarizes the basic principle which is contained in 14.0(a), and which in full reads:

[REDACTED]

It is not clear that in the case at hand Mr. [REDACTED] was "arbitrarily deprived" of any substantive benefit to which he is by right entitled.

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25X1A Not only is there no right to have the vehicle shipped at Government expense [redacted] limits, there is an express Congressional denial of that right (5 USC 73 (c)). Further, no employee has a right to one mode of transportation against another. There is no right to any particular means of transportation unless and until authorizing travel orders are issued.

25X1A 5. The Confidential Funds Regulations in Section 1.2 state as a principle that confidential funds will be expended generally in accordance with laws and regulations governing vouchered funds, the primary purpose being to preserve security of operations and personnel. Where the assigned functions of the Agency require expenditures not considered normal in Government, the specific provisions of the Confidential Funds Regulations have been designed to authorize such expenditures. It is argued that this case is taken out of the general rule pertaining to expenditures because of operational necessity. While it can be stated thusly, the operational necessities were not of a nature that are peculiar to the functions of this Agency.

25X1A2e 6. The Special Contracting Officer suggests that though the expense involved cannot be paid as an allowable travel expense, he believes that it can be paid as proper operational expense under the authority delegated to the DD/A which is set forth in Section 10.12 of the CFR's. As we have stated above, we do not believe that this is an "operational expense" peculiar to the operations of this Agency, and as such the payment of a claim of this nature under a special authority would be a subterfuge that would tend to break down the accepted standards for expending Government funds in compliance with general laws and regulations when a function peculiar to this Agency is not involved. It is true that the Agency has the "power" to reimburse Mr. [redacted] for this expense, but we do not believe there is legal "authority" to pay such an expense in the absence of specific statutory provisions exempting us from general law and regulations for all purposes. To use Section 10.12 for purposes of this nature is to say that this Agency, whenever it deems general Governmental regulations to be inequitable, has the authority to ignore them.

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~~SECRET~~

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7. The Comptroller General stated in the recent decision barring this Agency from granting retroactive pay increases, that:

"I feel certain it was not contemplated by the sponsors of the bill or by the Congress that this broad authority would be resorted to, or that it even contemplated a disregard of any control with respect to the normal administrative or operating problems which confront the ordinary Government agency." (Comp. Gen. #106516, 21 November 1951)

It is believed that the Comptroller's statement affirms the views stated above which often have been expressed by this office as the legal principles to be followed regarding the expenditure of Confidential Funds.


Assistant General Counsel

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OCC/JSW:aia

Enclosure

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SECURITY INFORMATION

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14 December 1951

MEMORANDUM

TO: ADDA(s)

FROM: Special Contracting Officer

SUBJECT: Hardship Claim of [REDACTED]

25X1A2e

1. Attached is a request of Chief, FS recommending reimbursement of subject individual in the amount of \$318.67 representing the cost of shipping his personal automobile [REDACTED] in conjunction with a permanent change of station. I recommend that this be approved by the DCI or by the DDA under the special delegation to him to approve claims up to \$2000.

25X1A

2. You doubtless recall this claim as originally submitted. At that time the General Counsel ruled that the items claimed were not legally allowable under the statutes governing the travel of Government employees. In a covering note you indicated that you were highly disturbed that an individual should suffer personal financial hardship due to circumstances beyond his control and which were created by CIA operational requirements. You also requested further study of the problem.

3. I have carefully reviewed the original claim with the operating division and discovered that there was no reasonable basis for the major portion of the claim. The single item claimed at this time, however, appears reasonable and just and, after thorough discussion, the Division willingly withdrew support of all claims excepting this one.

4. Legally the General Counsel will, I am sure, rule that the expense involved cannot be paid as an allowable travel expense. With this I concur. I believe, however, it is a proper operational expense in the broad sense which can be approved by the DCI. I am told, but have not seen, the regulation that the DCI has delegated to the DDA the authority without qualification to approve claims up to \$2000.

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[REDACTED]
Special Contracting Officer

cc- FS/OPC

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